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PRE-APPEAL BRIEF REQUEST FOR REVIEW via <u>AFS</u> -Web		Docket Number (Optional) 4366-121						
<p>I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]</p> <p>on <u>July 2, 2008</u></p> <p>Signature <u>[Signature]</u></p> <p>Typed or printed name <u>BRADLEY M. KNEPPER</u></p>	<table border="1" style="width: 100%; border-collapse: collapse;"><tr><td style="width: 50%; padding: 5px;">Application Number 10/660,938</td><td style="width: 50%; padding: 5px;">Filed 2003-09-12</td></tr><tr><td colspan="2" style="padding: 5px;">First Named Inventor Manish Marwah</td></tr><tr><td style="padding: 5px;">Art Unit 2154</td><td style="padding: 5px;">Examiner TURNER, ASHLEY D</td></tr></table>		Application Number 10/660,938	Filed 2003-09-12	First Named Inventor Manish Marwah		Art Unit 2154	Examiner TURNER, ASHLEY D
Application Number 10/660,938	Filed 2003-09-12							
First Named Inventor Manish Marwah								
Art Unit 2154	Examiner TURNER, ASHLEY D							
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <table style="width: 100%;"><tr><td style="width: 50%; vertical-align: top;"><p><input type="checkbox"/> applicant/inventor.</p><p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p><p><input checked="" type="checkbox"/> attorney or agent of record. <u>44,189</u> Registration number</p><p><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____</p></td><td style="width: 50%; vertical-align: top; padding-top: 20px;"><p style="text-align: center;"><u>[Signature]</u> Signature Bradley M. Knepper Typed or printed name</p><p style="text-align: center;">(303) 863-9700 Telephone number</p><p style="text-align: center;"><u>July 2, 2008</u> Date</p></td></tr></table> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p>			<p><input type="checkbox"/> applicant/inventor.</p> <p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p> <p><input checked="" type="checkbox"/> attorney or agent of record. <u>44,189</u> Registration number</p> <p><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____</p>	<p style="text-align: center;"><u>[Signature]</u> Signature Bradley M. Knepper Typed or printed name</p> <p style="text-align: center;">(303) 863-9700 Telephone number</p> <p style="text-align: center;"><u>July 2, 2008</u> Date</p>				
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<p><input type="checkbox"/> *Total of _____ forms are submitted.</p>								

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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The information provided by you in this form will be subject to the following routine uses:

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2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re the Application of:

MARWAH

Serial No.: 10/660,938

Filed: September 12, 2003

Atty. File No.: 4366-121

For: "METHOD AND APPARATUS USING
LIGHTWEIGHT RRQ FOR EFFICIENT
RECOVERY OF A CALL SIGNALING
CHANNEL IN A GATEKEEPER-ROUTED
CALL SIGNALING"

) Group Art Unit: 2154
)

) Examiner: TURNER, ASHLEY D
)

) Confirmation No.: 7028
)

) REASONS SUPPORTING PRE-APPEAL
) BRIEF REQUEST FOR REVIEW
)

<p style="text-align: center;">CERTIFICATE OF TRANSMISSION</p> <p>I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING TRANSMITTED VIA THE OFFICE ELECTRONIC FILING SYSTEM IN ACCORDANCE WITH 37 CFR §1.6(a)(4) ON <u>July 2, 2008</u></p> <p style="text-align: center;">SHERIDAN ROSS P.C.</p> <p>BY: <u>[Signature]</u></p>
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Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

The following sets forth Applicant's Reasons in Support of the Pre-Appeal Brief Request for Review submitted herewith. Also submitted herewith is a Notice of Appeal, and a Request for a Pre-Appeal Brief Conference, together with the associated fees. Although no additional fees are believed due in connection with the filing of these papers, please charge any such fees deemed necessary to Deposit Account No. 19-1970.

The Examiner's objections omit essential elements needed to reject the pending claims. In particular, the cited references do not teach, suggest or describe sending a keep alive message and/or a lightweight registration request message to an alternate gatekeeper in response to or after the loss of a call signaling channel established with a first gatekeeper as claimed.

The Examiner's actions dated April 2, 2008 and June 25, 2008, reject Claims 1-10, and 12-14 under 35 U.S. C. §102 as being anticipated by U.S. Patent No. 6,785,223 to Korpi et al.

("Korpi"). Claims 21-23 stand rejected under 35 U.S.C. §102 as being anticipated by U.S. Patent Number 6,771,623 to Ton ("Ton"). In addition, Claims 15, 17, 18 and 20 stand rejected under 35 U.S.C. §103 as being unpatentable over Korpi in view of Ton, and Claim 11 stands rejected under 35 U.S.C. §103 as being unpatentable over Korpi in view of U.S. Patent Number 6,904,277 to Tsutsumi, et al ("Tsutsumi"). However, all the claimed elements cannot be found in the cited references, whether those references are considered alone or in combination. In particular, there is no teaching, suggestion or disclosure in the cited references of sending a keep alive message to a replacement gatekeeper after or in response to the loss of a call signaling channel with a first gatekeeper as generally claimed. Instead, the references primarily relied on by the final Actions discuss sending messages from a gatekeeper to clients (the Korpi reference), or sending messages between home agents after a device has successfully registered with one of the home agents (the Ton reference). Accordingly, reconsideration and withdrawal of the rejections of the claims, as anticipated by or obvious in view of the cited references are respectfully requested.

The present invention is generally directed to efficiently recovering realtime data communication signaling channels established between an endpoint and a gatekeeper over an Internet protocol network. More particularly, embodiments of the claimed invention are directed to providing a communication signaling channel between a communication endpoint and a second gatekeeper after a communication signaling channel between the communication endpoint and a first gatekeeper has been lost. In addition, the pending claims recite that the second or alternate call signaling channel is established by sending a keep alive message and/or a lightweight registration request message to the second, alternate gatekeeper in response to or after the loss of a call signaling channel with the first gatekeeper. The cited references do not teach, suggest or disclose all of these noted aspects of the invention as claimed, whether those references are considered alone or in combination.

The Korpi reference is generally directed to automatically reestablishing signaling that was interrupted due to a gatekeeper failure in an H.323 network. In particular, Korpi discusses the establishment of a supervisory link between primary and secondary gatekeepers. (Korpi, col. 2, ll. 17-21.) Korpi states that "[t]he supervision is done by the secondary gatekeeper sending 'keep alive' messages between gatekeepers." (Korpi, col. 2, ll. 21-23.) According to Korpi, if

the primary gatekeeper fails, the secondary gatekeeper then initiates takeover of the call and sends affected clients a failure notification message. The clients then reestablish the call signaling channel using the secondary gatekeeper. (Korpi, col. 2, ll. 29-40.)

The Korpi reference does not teach, suggest or describe sending a keep alive message to a secondary alternate gatekeeper in response to losing a call signaling channel, for example as recited by independent Claims 1 and 15, and the claims dependent therefrom. Instead, Korpi describes sending a failure notification message from a secondary gatekeeper to clients. Therefore, none of the pending claims are anticipated by Korpi, and the rejections of Claims 1-10 and 12-14 should be therefore be reconsidered and withdrawn.

The Ton reference is generally directed to a method for ensuring reliable mobile IP service. More particularly, Ton allows registration with alternate agents when a primary agent is unavailable. However, Ton does not teach, suggest or describe sending a keep alive message in order to effectively reestablish a lost call signaling channel, sending a keep alive message that comprises a lightweight registration request, or sending a lightweight registration request (RRQ) in response to losing a signaling link. The Final Office Actions assert that the Ton reference discloses sending a lightweight RRQ message in response to a loss of a first call signaling channel. However, Applicants note that the portion of Ton cited in connection with sending a lightweight RRQ message describes a message that is sent from a primary home agent (HA1) to a secondary home agent (HA2). (See Office Action dated June 25, 2008, pages 14-15, citing Ton, col. 9, ll. 50-53.) Therefore Ton does not describe a communication endpoint (MN) that sends a lightweight RRQ message to an alternate call controller in response to a loss of a call signaling channel. Moreover, the message sent from the primary home agent in Ton is not sent in response to the loss of a call signaling channel. Instead, Ton discusses sending a message once the mobile device has registered with the primary home agent. Accordingly, Ton does not disclose a communication endpoint that sends a keep alive signal to establish a second call signaling channel in response to losing a link between the endpoint a means for controlling as recited by Claims 21-23. Therefore, Claims 21-23 are not anticipated by Ton and should be allowed.

With respect to the rejections of Claims 15, 17, 18 and 20 as obvious over a proposed combination of Korpi and Ton, Applicants submit that even if such a combination is proper, it

does not provide each and every element of the rejected claims. For example, as discussed above, neither of these references disclose sending a keep alive message or a lightweight RRQ message in response to a loss of a communication link between an endpoint and a gatekeeper or controller as generally claimed. Therefore, even if these references are combined, such elements of the claims are not disclosed. In particular, the Korpi reference discusses sending failure notification messages to clients in response to a primary gatekeeper failure, and does not discuss sending a lightweight registration request to a replacement gatekeeper in response to losing a signaling channel between a communication endpoint and a first gatekeeper. The Ton reference also does not disclose sending a lightweight RRQ message after or in response to the loss of a signaling link. Accordingly, the rejections of Claims 15, 17, 18 and 20 should be reconsidered and withdrawn.

The Office Action also notes that Ton does not disclose a telephony device comprising an IP telephone, a soft telephone, a video telephone, or a soft video-phone. For such disclosure, the Office Action cites to Tsutsumi. Applicant agrees that Tsutsumi could be taken as evidence of the existence of IP telephones in the prior art. However, Tsutsumi does not teach, suggest, or describe the use of IP telephones in connection with a system or method as otherwise recited by the pending claims. Moreover, Tsutsumi does not make up for the deficiencies of Ton (or Korpi) with respect to the independent claims. Accordingly, the rejection of Claim 11 as obvious should be reconsidered and withdrawn.


*Application Serial No. 10/660,938
Reasons Supporting Pre-Appeal Brief
Request for Review*

The Pre-Appeal Brief Conference participants are invited to contact the undersigned by telephone if there are any questions or if doing so would expedite the resolution of this matter.

Respectfully submitted,

SHERIDAN ROSS P.C.

By: _____


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July 2, 2008